

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Apr 18, 2019**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOEL TRUJILLO,

Defendant.

No. 1:18-cr-02067-SMJ

**ORDER DENYING MOTION TO  
SUPPRESS**

A pretrial conference and evidentiary hearing occurred in the above-captioned matter on April 16, 2019. Defendant Joel Trujillo was present and represented by Alex B. Hernandez, III. Assistant U.S. Attorney Troy J. Clements appeared on behalf of the Government. Before the Court was Defendant's motion to suppress evidence, ECF No. 28. At the hearing, the Court denied the motion. This Order memorializes and supplements the Court's oral ruling.

**FACTUAL BACKGROUND AND FINDINGS**

Trujillo is charged with being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). ECF No. 1. After serving a state sentence for two counts of second degree assault, Trujillo was released under Washington State Department of Corrections ("DOC") community custody supervision. ECF

1 No. 29-1 at 10. When Trujillo failed to report to DOC on April 26, 2018,  
2 Community Corrections Officer (“CCO”) Sergio Macias requested that an arrest  
3 warrant be issued. A felony arrest warrant issued on May 1, 2018, for escape from  
4 community custody. *Id.* at 8.

5 On July 29, 2018, Toppenish Police Officer M. Weible responded to a call at  
6 a residence in Toppenish, Washington. *Id.* at 2. When he arrived, he was informed  
7 by the reporting party that her brother, Trujillo, was having a panic attack in the  
8 bathroom. *Id.* Officer Weible contacted Trujillo in the bathroom and saw him  
9 having difficulty breathing, so he called for medical assistance. *Id.* During this time,  
10 Officer Weible was alerted of the DOC warrant. Officer Weible left when medical  
11 assistance arrived. *Id.* Subsequently, Officer Weible informed Toppenish Police  
12 Office Kyle Cameron of Trujillo’s location. *Id.* at 4. Officer Cameron then notified  
13 CCO Macias. *Id.*

14 On August 2, 2018, CCO Macias requested CCO Erica Vela’s and the  
15 Toppenish Police Department’s assistance in executing an arrest warrant for  
16 Trujillo. The Toppenish Police Department’s assistance is requested on a case-by-  
17 case basis depending on the person who is subject to arrest. The arrest team met and  
18 discussed a plan, a description of the residence, safety concerns, and Trujillo’s  
19 supervision and criminal history<sup>1</sup>. CCO Macias believed that Trujillo placed on the

20 \_\_\_\_\_  
<sup>1</sup> This included gang affiliation, firearm use, assaults, and drug use.

1 high end of a risk assessment scale: a 10/10. When the arrest team arrived at the  
2 residence, Trujillo's father was outside and confirmed that Trujillo was inside in his  
3 bedroom. Upon telling him about the arrest warrant and obtaining consent to enter,  
4 CCO Macias and CCO Vela entered the residence.

5       Upon entering the front door with firearms drawn, they observed Trujillo  
6 coming out of his bedroom. CCO Macias ordered Trujillo to show his hands, waited  
7 for Trujillo to walk toward them, and arrested him with CCO Vela's assistance.  
8 Trujillo was compliant and did not have any drugs or guns on his person. From  
9 where the arrest occurred, the bedroom was about 10–15 feet away and the view  
10 into the bedroom was obscured although the door was open.

11       While CCO Macias tended to Trujillo, CCO Vela did a quick sweep of the  
12 kitchen and walked to the bedroom to conduct a visual inspection for persons who  
13 may launch an attack. Although Trujillo's father had told her that nobody else was  
14 in the house, this was standard operating procedure for an in-home arrest. From  
15 outside the bedroom, it could not be determined whether any individuals were  
16 inside, including beside the bed, under the covers in the bed, or in the closet. As she  
17 entered the doorway, CCO Vela encountered a female in the room. While  
18 maintaining her position at the inner entry of the doorway with her back to the door,  
19 she instructed the female to leave the bedroom. Simultaneously, she observed a  
20 small plastic baggie that contained a crystal-like substance on the bed's headboard

1 about 10 feet away. Based on her training and experience encountering similar  
2 substances about 12–15 times, she believed it to be methamphetamine. She noted  
3 the way it was packaged—it was in a little plastic bag and the top was open but it  
4 was apparent it had been tied up because of the wrings on top. She then left the  
5 bedroom and told CCO Macias about the baggie and indicated her belief that it was  
6 methamphetamine.

7 CCO Vela then reentered the bedroom with CCO Macias and continued her  
8 visual inspection; she checked the left corner of the bedroom and then the closet,  
9 then went to the rightside headboard of the bed to further inspect the baggie with  
10 the crystal-like substance. She also noticed a brown substance on a spoon that she  
11 believed to be heroin.

12 From the door, CCO Macias could also observe the baggie on the headboard.  
13 Following a closer inspection, he immediately recognized it as a controlled  
14 substance based on his experience because typically, drugs are bagged in small  
15 amounts in that manner. He also observed on a table next to the bed a black  
16 substance in a baggie, next to a spoon. He believed the substance to be heroin based  
17 on its black tar, gum-like texture. He also observed syringes and hypodermic  
18 needles in the room.

19 CCO Macias left the room and went to Officer Cameron, who soon thereafter  
20 entered the bedroom to inspect the suspected controlled substances. Although the

1 CCOs were permitted to seize the suspected paraphernalia and continue searching,  
2 CCO Macias asked the Toppenish Police Department to take over because he felt  
3 that there were new felony criminal charges. After the CCOs left to transport  
4 Trujillo to the Yakima County Jail, Officer Cameron requested a telephonic search  
5 warrant to search the bedroom for evidence of possession with intent to distribute  
6 methamphetamine and heroin, and possession of methamphetamine and heroin. *Id.*  
7 at 4. Upon obtaining and executing the search warrant, Officer Cameron found a  
8 firearm in a pair of shorts located on top of the mattress. *Id.* at 5. Officer Cameron  
9 then requested and obtained an amended warrant to include evidence of unlawful  
10 possession of a firearm. *Id.*

11 The search of the room revealed 6.735 grams of presumptively positive  
12 heroin found in a small baggie in a fabric zippered bag labeled “Sacramento” across  
13 the side; 0.492 grams of presumptively positive heroin found on the nightstand;  
14 1.344 grams of presumptively positive methamphetamine found on the headboard  
15 of the bed; multiple digital scales that tested positive for drugs; \$100 in U.S.  
16 currency of various denominations; and a Smith & Wesson 9mm pistol that was  
17 confirmed stolen. *Id.* at 5–6, 10. Officer Cameron also located a 7.62 x 39mm round  
18 in a shoebox in the room. *Id.* at 5.

19 Trujillo’s father then consented to a search of the remainder of the residence.  
20 *Id.* Officer Cameron found an SKS rifle magazine above the refrigerator. *Id.*

1 Trujillo's father disclaimed ownership and allowed officers to take it. *Id.*

2 **DISCUSSION**

3 Trujillo moves to suppress all evidence obtained by law enforcement officers  
4 on August 2, 2018. ECF No. 28. He argues that the search was unlawful under  
5 Revised Code of Washington ("RCW") § 9.94A.631(1) because the officers did not  
6 have "reasonable cause" to believe he had violated any other conditions of  
7 community custody supervision, and that all evidence seized as a result of the  
8 unlawful search must be suppressed. *Id.*; *see also Wong Sun v. United States*, 371  
9 U.S. 471 (1963).

10 When an individual is subject to community custody supervision and there is  
11 reasonable cause to believe that he has violated a condition or requirement of a  
12 sentence, a DOC officer may require him to submit to a search and seizure of his  
13 person, residence, automobile, or other personal property. RCW 9.94A.631(1).

14 Here, Trujillo concedes that officers had reasonable cause to believe he  
15 violated his conditions of supervision because he had failed to report to DOC. ECF  
16 No. 28 at 6. And as such, he notes that officers could search the residence to arrest  
17 him. *Id.* But he asserts that once he was arrested, the officers did not have a basis to  
18 enter and search his bedroom because there was no reasonable cause to believe  
19 Trujillo had violated any additional conditions of supervision. *Id.* at 7. In support,  
20 he cites *State v. Cornwell*, 412 P.3d 1265 (Wash. 2018), and points to CCO Macias's

1 incident report, which states that CCO Vela visually inspected Trujillo's room "for  
2 further violations of his community custody supervision." ECF No. 29-1.

3 But this argument misses the mark because federal law applies here. The  
4 Ninth Circuit has expressly held that district courts generally need not look to state  
5 law when determining the admissibility of evidence obtained in accordance with  
6 federal law. *United States v. Chavez-Vernaza*, 844 F.2d 1368, 1374 (9th Cir. 1987)  
7 ("We . . . reject the suggestion . . . that federal courts should defer to state law in  
8 deciding whether to admit evidence seized by state officers . . . and reaffirm . . . that  
9 evidence seized in compliance with federal law is admissible without regard to state  
10 law.").

11 However, "[t]here are two exceptions to the general rule that state law  
12 violations do not require suppression of evidence in federal court." *United States v.*  
13 *Cormier*, 220 F.3d 1103, 1111 (9th Cir. 2000). These exceptions stem from instances  
14 where the federal constitutional test for determining the legality of a search  
15 incorporates state law. One exception pertains to the legality of an inventory search,  
16 while the other arises in searches incident to arrest, because district courts "must  
17 determine the reasonableness of the arrest in reference to state law governing the  
18 arrest." *Id.* Here, there is no dispute that both exceptions are inapplicable, so federal  
19 law governs.

20 Additionally, the Court finds based on CCO Macias's credible testimony that

1 an inspection for further violations is merely part and parcel of the inspection to  
2 check for persons who may launch an attack and threaten officer safety. In fact, CCO  
3 Vela, who conducted the visual inspection, testified that her own objective for the  
4 visual inspection was to look for people. CCO Macias was merely indicating his  
5 belief, in his report, that CCO Vela was inspecting for further violations.

6 In any case, CCO Vela's precise subjective state of mind is of no import in  
7 the Fourth Amendment analysis, *see Whren v. United States*, 517 U.S. 806, 813  
8 (1996), and officers are entitled to conduct a warrantless "protective sweep" incident  
9 to an in-home arrest as a precautionary matter to protect their safety, *Maryland v.*  
10 *Buie*, 494 U.S. 325, 327 (1990). Without probable cause or reasonable suspicion,  
11 officers may briefly "look in closets and other spaces immediately adjoining the  
12 places of arrest from which an attack could be immediately launched." *Buie*, 494  
13 U.S. at 334. Beyond that, there must be "articulable facts which, taken together with  
14 the rational inferences from those facts, would warrant a reasonable prudent officer  
15 in believing that the area to be swept harbors an individual posing a danger to those  
16 on the arrest scene." *Id.*

17 Here, Officer Vela, upon conducting a quick cursory inspection of the kitchen,  
18 had barely entered Trujillo's bedroom<sup>2</sup> when she encountered a female and stopped  
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20 <sup>2</sup> Trujillo concedes that the bedroom was an immediately adjoining area from  
which an attack could be immediately launched.



1 just inside the doorway. From that vantage point, she observed what she believed to  
2 be methamphetamine. Based on her observation, she could continue searching under  
3 RCW 9.94A.631(1) as she now had “reasonable cause” to believe another condition  
4 of supervision had been violated. CCO Vela articulated her well-founded suspicion  
5 that the baggie contained controlled substances based on the way the crystal-like  
6 substance was packaged. She had encountered methamphetamine previously about  
7 12–15 times. And because the Ninth Circuit has already determined that searches  
8 conducted pursuant to RCW 9.94A.631(1) comports with the Fourth Amendment’s  
9 requirements, the Court’s analysis into the officers’ compliance with federal law  
10 ends here. *See United States v. Conway*, 122 F.3d 841 (9th Cir. 1997).

11 Trujillo does not dispute that all CCO Vela needed was reasonable cause to  
12 believe another violation had occurred, but disputes that she would have been able  
13 to suspect that the baggie contained controlled substances from her position at the  
14 doorway. The Court disagrees and finds, based on credible testimony from both  
15 CCOs Vela and Macias, that the baggie with a crystal-like substance could be  
16 observed from the doorway. This was sufficient for a well-founded suspicion that  
17 another violation had occurred given CCO Vela’s previous experience encountering  
18 methamphetamine.

19 Because CCO Vela had grounds to search the bedroom under RCW  
20 9.94A.631(1), the Court sees no need to reach Trujillo’s argument that she exceeded

1 the scope of the protective sweep by entering the bedroom, checking the side of the  
2 bed and in the closet, and ultimately walking to the rightside headboard. In any case,  
3 the Court rejects this argument because CCO Vela was justified in wanting to make  
4 sure nobody else was hiding in all corners of the bedroom, given that she had just  
5 encountered a female in the room upon being told that nobody else was present in  
6 the house. A reasonably prudent officer would not believe that her brief inspection  
7 for persons had concluded just because an individual, who was not hiding, was  
8 discovered. The potential threats to officer safety had not yet abated.

9 Thus, having heard testimony and oral argument, and reviewed the briefs and  
10 exhibits, the Court is fully informed and denies the motion to suppress.


11 Therefore, **IT IS HEREBY ORDERED:**

12 **1. Defendant's motion to suppress evidence, ECF No. 28, is DENIED.**

13 **2. The Clerk's Office is DIRECTED to SET an additional pretrial**  
14 **conference on May 7, 2019 at 8:00 AM in Richland.**

15 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and  
16 provide copies to all counsel.

17 **DATED** this 18th day of April 2019.

18   
19 **SALVADOR MENDUZA, JR.**  
20 **United States District Judge**